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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,766	10/08/2003	R. Russell Stever	JENENT.2CP1D1	8306

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EXAMINER

LAWRENCE JR, FRANK M

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,766

Applicant(s)

STEVER ET AL.

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 44-50 and 54 is/are rejected.
- 7) ☒ Claim(s) 51-53 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The first paragraph of the specification should be amended to include the current status of the parent applications.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 46 recites the limitation "the overflow structure" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. To overcome this rejection, claim 46 should be amended to depend from claim 45.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 44, 47 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by the German publication (DE 9206753 U).

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7. DE '753 teaches a waste water separation system, comprising inputting liquid into a receptacle (7) through an inlet opening (16), interrupting the flow of the liquid around an inlet baffle (24) after the inlet opening, communicating the liquid through an active pool over the inlet baffle to an outlet opening (15) that is smaller than the inlet opening, interrupting the flow of the liquid around an outlet baffle (21) before the outlet opening, and settling and holding sediments (8) in a permanent pool below the active pool (see figure 1).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 44-47, 50 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteith (5,753,115) in view of Greene et al. (5,433,845).

10. Monteith '115 discloses a stormwater treatment system comprising a receptacle for receiving surface runoff and having a top, bottom, perimeter, an inlet in an inlet section defined by an integral overflow weir (52) for interrupting received water, an outlet in an outlet section defined by a second integral overflow weir (32) for interrupting water flow before it passes out of the receptacle, a midsection (20) comprising a fluid communication between the inlet and outlet sections, a permanent pool defined in the midsection bottom wall and extending past the height of an outlet pipe (60) but being generally below the path of fluid communication between the inlet and outlet, and an active pool during heavy storms that forms when the water level rises above the overflow weirs and is defined by the top of the receptacle and the outlet height. An

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inactive pool will exist in the area between the overflow weirs that act as baffles, and the receptacle perimeter. The permanent pool will inherently trap sediments. The outlet overflow weir includes a spill-over inflow, an inflow pipe (60), an outflow pipe (24), an open top that will allow access, and will divert excess stormwater from the receptacle when it is full without affecting active pool performance. The instant claims differ from the disclosure of Monteith '115 in that the outlet opening is smaller than the inlet opening and that the water is filtered through a mesh screen before discharge.

11. Greene et al. '845 discloses a flow control bypass basin system for separating solids from rainfall runoff, comprising an inlet baffle for creating a permanent pool that captures solids (68), a mesh screen (66) extending above the baffle for removing floating solids from the water (col. 5, lines 44-60), and an outlet opening (34) that is smaller than the inlet opening (32) (figures, col. 6, lines 37-43). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system of Monteith '115 by including a mesh screen in order to provide a means for collecting floating trash that could clog the separator, and to use a relatively smaller outlet opening in order to allow water accumulation in the separator tank that will be subject to treatment.

12. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '753 or Monteith '115 in view of Greene et al. '845 as applied to claim 44 above, and further in view of Pielkenrood (3,938,713).

13. Either of DE '752 or Monteith '115 in view of Greene et al. '845 discloses all of the limitations of the claims except that the outlet opening includes an orifice substantially smaller than the inlet and that discharge is controlled by moving the outlet opening. Pielkenrood '713

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discloses a flow regulator for a sediment-collecting chamber comprising a relatively smaller orifice (18) within the outlet of the chamber that is movable for flow control (see figures, abstract). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the systems of the prior art references by including a small, movable outlet orifice in order to provide a means for regulating the ratio of discharge flow from the chamber.

Allowable Subject Matter

14. Claims 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional reference listed on the attached PTO-892 form discloses a water treatment system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence
Primary Examiner
Art Unit 1724



1-26-05

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